

ADMINISTRATIVE PANEL DECISION

PB Web Media B.V. v. Denis Popov, tgptraffic / Nate Wellington, adult traffic
Case No. D2024-2403

1. The Parties

The Complainant is PB Web Media B.V., Netherlands (Kingdom of the), represented by ICTRecht Amsterdam B.V., Netherlands (Kingdom of the).

The Respondent is Denis Popov, tgptraffic, France, and Nate Wellington, adult traffic, Belgium.

2. The Domain Names and Registrar

The disputed domain names <ixxx.onl> and <ixxxvideos.xyz> (the “Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 12, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 14, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 18, 2024.

The Center sent an email communication to the Complainant on June 14, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that the Domain Names are under common control. The Complainant filed an amended Complaint on June 18, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 24, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on August 5, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant facilitates access to online adult content. The Complainant owns trademarks containing IXXX, such as Benelux trademark no. 988760 (registered on March 28, 2016).

The Domain Names were registered respectively on April 7, 2021 and July 16, 2021. The Domain Names resolved to webpages with pornographic content.

5. Parties' Contentions

A. Complainant

The Complainant argues that the Domain Names are under common control. Both Domain Names target the Complainant's trademark. Both are registered through the same Registrar and offer access to pornographic content using similar services and more or less the same website template. The advertisements on the webpages of the Domain Names are provided by the same company and have the same publisher-ID. Following notice of the Complaint from the Center, the Registrant information for both Domain Names were changed. Finally, both Domain Names use the same service for emails.

The Complainant provides evidence of trademark registrations that pre-date the Respondent's registration of the Domain Names. The Complainant argues that the Domain Names incorporate the Complainant's trademark. The addition of the term "videos" in one of the Domain Names does not prevent confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Complainant asserts that the Respondent has not been granted any authorization to use the Complainant's trademark. The Respondent does not make legitimate noncommercial or fair use of the Domain Names. On the contrary, the Respondent intends to misleadingly divert consumers for commercial gain.

The Complainant argues that the Domain Names were registered in order to prevent the Complainant from reflecting its trademark in corresponding Domain Names and the Respondent has engaged in a pattern of such conduct since it targets multiple domain names with this trademark of the Complainant. Moreover, the Domain Names were registered primarily for the purpose of disrupting the business of the Complainant by offering pornographic content under the Complainant's trademark. By using the Domain Names, the Respondent attempts to attract for commercial gain, Internet users to the Respondent's websites, by creating a likelihood of confusion with the Complainant's marks.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards to common control, the Panel notes that one of the Domain Names is identical to the Complainant's Trademark. The other Domain Name includes the Complainant's trademark with the addition of "videos". The Domain Names are registered through the same Registrar and offer access to pornographic content from similar website templates. The advertisements on the webpages of the Domain Names appears to be provided by the same company. Despite being offered the possibility to comment, the Domain Name registrants have not commented on the Complainant's request for consolidation.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the dispute regarding the nominally different Domain Name registrants in a single proceeding and will be jointly referred to as the "Respondent" unless otherwise indicated.

6.2. Substantial Issues

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has established that it has rights in the trademark IXXX. The Domain Names incorporate the Complainant's trademark. One of the Domain Names is identical to the Complainant's trademark. When assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"). [WIPO Overview 3.0](#), section 1.11.1. The other Domain Name incorporates the Complainant's trademark with the addition of "videos". The addition does not prevent a finding of confusing similarity between the Domain Names and the trademark. [WIPO Overview 3.0](#), section 1.8.

The Panel finds that the Domain Names are identical and confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is

often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a bona fide offering of goods or services. Finally, the Panel finds that the composition of the Domain Names carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Names in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Respondent most likely knew of the Complainant when he registered the Domain Names. It follows from the composition and use of the Domain Names. The Respondent has not offered any explanation as to why it registered the Domain Names, nor provided any evidence of actual or contemplated good faith use of the Domain Names. The Respondent's use of the Domain Names is evidence of the bad faith intent to attract for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. Finally, the Respondent's use of privacy service may under the circumstances of this case give further indication of bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Names <ixxx.onl> and <ixxxvideos.xyz> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: August 19, 2024